

protracted disruption in the delivery of legal services to eligible clients.

§ 1625.2 Definitions.

Denial of refunding means a decision that, after the expiration of a grant or contract, a recipient:

(a) Will not be provided financial assistance; or

(b) Will have its annual level of financial support reduced to an extent that is not required either by a change of law, or a reduction in the Corporation's appropriation that is apportioned among all recipients of the same class in proportion to their current level of funding, or by the uniform application of a statistical formula for the reallocation of funding among the members of the same class, and is more than 10 percent below the recipient's annual level of financial assistance under its current grant or contract.

§ 1625.3 Grounds for denial of refunding.

Refunding may be denied when:

(a) Denial is required by, or will implement, a provision of law, a Corporation rule, regulation, guideline, or instruction that is generally applicable to all recipients of the same class, or a funding policy, standard, or criterion approved by the Board; or

(b) There has been significant failure by a recipient to comply with a provision of law, or a rule, regulation, guideline, or instruction issued by the Corporation, or a term or condition of a current or prior grant from or contract with the Corporation; provided, however, that a recipient's failure to comply with any of the requirements in this paragraph at a time when the requirement was not in effect or at a time more than 6 years prior to the date the recipient receives notice of the failure pursuant to § 1625.4 shall not be a basis for denial of refunding; or

(c) There has been significant failure by a recipient to use its resources to provide economical and effective legal assistance of highly quality as measured by generally accepted professional standards, the provisions of the act, or a rule, regulation, or guideline issued by the Corporation. If the recipient could not reasonably be expected to have prevented or corrected its failure

without notice from the Corporation and an opportunity to have taken effective corrective action, refunding shall not be denied for this cause unless the Corporation has given the recipient such notice and opportunity; or

(d) The Corporation finds that another organization, whether a current recipient or not, could better serve eligible clients in the recipient's service area.

§ 1625.4 Notice.

When there is reason to believe that refunding should be denied, the Corporation shall serve a written notice upon the recipient, and the Chairperson of its governing board, which shall include:

(a)(1) A short and plain statement, in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances, of the factual grounds for the denial of refunding;

(2) If the ground specified in § 1625.3(d) is asserted, the statement shall identify the other organization and specify the basis for the Corporation's assertion that it could better and more economically serve eligible clients;

(b) An affidavit or affidavits covering the direct testimony of each witness upon whom Corporation's counsel relies; such affidavit(s) shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein; sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be appended thereto; depositions, if available, shall be included;

(c) A memorandum of points of law and authorities showing with particularity:

(1) That the affidavit(s), paper(s), and deposition testimony specified in paragraph (b) of this section constitute evidence of such discrete factual allegations as were identified in paragraph (a)(1) of this section and as are sufficient under applicable law to support denial of refunding;

(2) The legal standards, rulings, statutes, regulations, or decisional law upon which the Corporation relies in